MYTH: A manifestation determination meeting must be held every time a student is suspended more than 10 days in a school year.

FACT: The IDEA only requires a manifestation meeting be held when a student is "long term suspended" from their current educational placement due to disciplinary reasons. A "long term suspension" is defined as greater than 10 days <u>consecutively</u> or greater than 10 days <u>cumulatively with a pattern</u>. In determining if a pattern has been created, school staff must consider the following:

- If the child's behavior is substantially similar to the child's behavior in previous incidents that results in the series of removals
- Additional factors such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another

If a student has <u>not</u> been assigned to a "long term suspension," then it is not necessary to conduct a manifestation determination. The model Discipline Documentation Form, the Discipline Process Flow Chart, and the Discipline Decision Maker Chart at http://dese.mo.gov/special-education/compliance/special-education-forms are designed to provide guidance for school staff. Also refer to 34 CFR 300.530, the Missouri State Plan for Special Education – Regulation V at http://dese.mo.gov/special-education/state-plan-special-education , and the Procedural Safeguards at http://dese.mo.gov/special-education/compliance/procedural-safeguards for additional information and guidance.

Clarification is being provided due to numerous questions regarding this type of situation. . .

MYTH: The IDEA discipline process, including a manifestation determination, does not apply to students who have not been identified as a student with a disability, even those students who have been referred or are in the process of being evaluated.

FACT: The answer depends upon two factors: 1) whether or not the district had knowledge that the child might be a child with a disability and 2) when the student was referred for a special education evaluation. IDEA provides for protections for students in disciplinary situations who have not yet been identified as a child with a disability; however, whether the district must implement the disciplinary provisions of IDEA (including conducting a manifestation determination) depends upon whether or not the district had knowledge that the child might be a child with a disability and at what point in the disciplinary process the district had that knowledge.

Knowledge <u>prior to</u> the disciplinary action:
If the district had knowledge that the child might be a child with a disability PRIOR TO the disciplinary action, then IDEA provides protections for that child and the district must follow the same disciplinary process and timelines as is follows for an identified child including conducting a manifestation determination if appropriate. The district is considered to "have knowledge" if BEFORE the behavior that precipitated the disciplinary action occurred:

- The parent of the child expressed a concern in writing that the child might need special education services
- The parent of the child requested an evaluation of the child
- LEA personnel expressed a concern about the pattern of behavior demonstrated by the child, or
- The child has been referred for or is in the process of being evaluated for special education

<u>No</u> knowledge <u>prior to</u> the disciplinary action:
If the district did NOT have knowledge that the child might be a child with a disability PRIOR TO the disciplinary action, then the child may be subjected to disciplinary measures applied to children without disabilities. If during the duration of the disciplinary action the parent of the child requests an evaluation, the district must expedite the evaluation process and provide the parent with a Notice of Action either proposing or refusing a special education evaluation. If an evaluation is conducted, the child remains in the educational placement determined by school authorities which can include suspension or expulsion without educational services until the evaluation is completed. If the child is determined eligible for special education as a result of the evaluation and the child is still subject to the disciplinary action, the district must follow appropriate discipline procedures including, if appropriate, conducting a manifestation determination meeting to consider any required information to determine if the behavior resulting in the disciplinary action was related to the child's disability. Once the manifestation determination is made, the district would need to follow the discipline procedures to determine what services will be provided to the student, and, if appropriate, consider if any compensatory services were owed to the student back to the development of the initial IEP.

Please refer to 34 CFR 300.530 and 34 CFR 300.534, the Missouri State Plan for Special Education – Regulation V at http://dese.mo.gov/special-education/state-plan-special-education , the Procedural Safeguards at http://dese.mo.gov/special-education/compliance/procedural-safeguards , and Section B, C, and D of the model Discipline Documentation Form at http://dese.mo.gov/special-education/compliance/special-education-forms for additional information and guidance.

MYTH: The 45 day interim alternative education placement for weapons/drugs/serious bodily injury or a violent/dangerous student is for 45 calendar days.

FACT: The IDEA allows for a 45 <u>**school**</u> day interim alternative education placement for weapons/drugs/serious bodily injury or a violent/dangerous student. Again, please refer to 34 CFR 300.530, the Missouri State Plan for Special Education – Regulation V at http://dese.mo.gov/special-education/state-plan-special-education , and the Procedural Safeguards at http://dese.mo.gov/special-education/compliance/procedural-safeguards for additional information and guidance.